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IN THE CIRCUIT COURT OF
THE 11TH JUDICIAL CIRCUIT
IN AND FOR DADE COUNTY, FLORIDA

GENERAL JURISDICTION DIVISION

CASE NO. 94-08273 CA (22)

HOWARD A. ENGLE, M.D.,
et al.,

Plaintiffs,

vs.

R.J. REYNOLDS TOBACCO
COMPANY, et al.,

Defendants.
_____/

Miami-Dade County Courthouse
Miami, Florida,
Tuesday, 1:25 p.m.
March 23, 1999

TRIAL - VOLUME 262

The above-styled cause came on for trial before the Honorable Robert Paul Kaye, Circuit Judge, pursuant to notice.

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SUSAN ROSENBLATT, ESQ.
On behalf of Plaintiffs

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On behalf of Defendant R.J. Reynolds

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On behalf of Defendant Brown & Williamson

CLARKE SILVERGLATE WILLIAMS & MONTGOMERY
KELLY ANNE LUTHER, ESQ.
On behalf of Defendants Liggett Group
and Brooke Group

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EDWARD A. MOSS, ESQ.
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On behalf of Defendant Brown & Williamson
JAMES T. NEWSOM, ESQ.
On behalf of Defendant Lorillard

DEBEVOISE & PLIMPTON
ANNE COHEN, ESQ.
JOSEPH R. MOODHE, ESQ.
On behalf of Defendant The Council for Tobacco Research

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(APPEARANCES - Continued)

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On behalf of Defendant Dosal Tobacco Corp.
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I N D E X

WITNESS	PAGE
HUGH R. GILMORE, M.D.	
Continued Cross by Mr. Rosenblatt	28871
Redirect by Mr. Ross	28903
RICHARD A. CARCHMAN, PH.D.	
Direct by Mr. Heim	28917

E X H I B I T S

PLAINTIFFS' EXHIBITS	OFFERED PAGE	ADMITTED PAGE	FOR ID PAGE
None			

E X H I B I T S

DEFENDANTS' EXHIBITS	OFFERED PAGE	ADMITTED PAGE	FOR ID PAGE
None			

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(Whereupon, the following proceedings were had:)

THE COURT: Are we about ready now?

MR. ROSENBLATT: Yes.

THE COURT: Okay. Let's get the jury back out.

And, Doctor.

THE BAILIFF: Bringing in the jury.

(The jury entered the courtroom.)

THE COURT: Okay. All right. Let's proceed.

CONTINUED CROSS EXAMINATION

OF HUGH R. GILMORE, M.D.

BY MR. ROSENBLATT:

Q. Dr. Gilmore, do I understand correctly that at the present time the only hospital that you practice at is Cedars?

A. That's correct.

Q. That's on Northwest 14th?

A. Near 12th Avenue.

Q. Near 12th?

A. Just off 12th Avenue.

Q. Okay. Your office is also there?

A. Yes. It's in the west building of the Cedars complex, so it's connected with the hospital.

Q. Okay. Now, counsel, Mr. Ross, had asked you about this concept of invasive, you know, cardiology.

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And, of course, as a cardiologist, cardiologists do not do surgery?

A. That's correct.

Q. Okay. So when we're talking about invasive, I guess something like a heart catheterization procedure would be considered invasive?

A. Yes, it would.

Q. Angiography would be considered invasive?

A. Yes, it would.

Q. All right. Tell us just in a very broad, general way what the purpose of a heart cath is, what the purpose of angiography is.

A. If you take an X-ray of the heart, you just see the heart; you don't see the blood vessels. It distinguishes between dense and nondense objects.

If you want to see the vessels of the heart, you inject a contrast substance that will show up on X-ray or that could be measured by nuclear devices. So cardiac catheterization is usually performed to do an angiogram, which means take a picture of the blood vessels by injecting a dye.

Q. Now, in your -- you have a group practice. You have associates and partners?

A. Yes.

Q. How many?

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A. There are four of us.

Q. Total -- four, including you?

A. Four, including myself. We actually share space with two others, but there are four that rotate the night calls and weekends.

Q. Do your associates, likewise, do no invasive cardiology?

A. That's correct.

Q. Is that simply a matter of choice, you've all made that choice, or is there a reason why you don't do invasive cardiology?

A. To do invasive cardiology, you have to have special training, and none of us -- none of my group has special training in invasive procedures, such as angiograms.

Q. Okay. So if you have -- if you have a patient with heart disease and you determine that you would like to get the results of a heart catheterization or angiography, you would send that patient to a specialist to do that?

A. Yes, I would.

Q. Okay.

When you left the University of Miami as a -- more or less, a full-time medical teacher, what was your status? Were you an associate professor?

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A. I think I was an assistant professor. I don't honestly remember, but I think assistant professor.

Q. Okay. Did you ever get tenure at the University of Miami School of Medicine?

A. Yes, I did.

Q. When was that?

A. It was shortly before I resigned.

Q. That's usually a good reason to stay, getting tenure. Was there any connection between your getting tenure and resigning?

A. No. I thought when I got tenure that I would stay forever. My plan was to stay forever at the University of Miami.

Q. Counsel asked you some questions about Buerger's disease. Buerger's disease, you will agree, is a terrible affliction where the people who have that disease can start simply to, by virtue of the problem with circulation of blood and oxygen, where they can start losing fingers, toes, hands, legs, that kind of thing?

A. Yes.

Q. Okay. Now, did I understand you correctly to say that there was some kind of debate within medicine on the issue of whether Buerger's disease was or was

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not caused by cigarette smoking?

A. There's an issue of debate about whether Buerger's disease is a variation of arteriosclerosis. The incidence of smoking, that is, the risk of Buerger's disease, is much higher in smokers. It does occur in people who do not smoke.

Q. Well, do you agree with this statement: That Buerger's disease is an arterial obliterative process that almost exclusively occurs in smokers?

A. I couldn't say the exact percent, but it's very high, much higher than coronary artery disease.

Q. Well, isn't it about 95 percent plus?

A. Yes, it is, but the problem with Buerger's disease is that when it was initially described, it was said to be in males and smokers only, so it kind of became part of the definition. It's only later that they said: Well, pathologically, this disease looks like Buerger's disease, but it occurred in a woman and she didn't smoke. So it confuses the issue a little bit.

Q. You're familiar with this textbook, Cardiovascular Medicine?

A. By? I don't see the author.

Q. Well, it's -- well, as you know, books this thick generally have doctors from all over the country

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that write a particular chapter, so when you say author, no one -- no one wrote the whole book, but it was edited by Dr. James Willerson and by Dr. Jay Cohn.

A. I know the names. I haven't read the book.

Q. Okay. Would you agree that this is an authoritative --

A. It appears --

Q. Well, just look at the beginning and look at the names of some of the contributors who have written chapters in that textbook, Cardiovascular Medicine.

A. No. I agree. I agree with you.

Okay. Well, let me just stand here with you, because I'm going to -- on Page 1163 of this textbook, there is a chapter entitled Peripheral Vascular Diseases, written by Dr. Thomas Rooke and Dr. Alan Hirsch. I looked at the beginning; they're both with the Mayo Clinic.

And these two doctors make this statement about Buerger's disease: Buerger's disease is an arterial obliterative process that almost exclusively occurs in smokers.

This is a 1995 textbook. That's a true statement; isn't it?

A. Yes.

Now, notice that Mr. Ross, when he showed you

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some of these charts, would often introduce a chart by saying: You helped us prepare the chart.

Well, who did prepare the chart? Was it you who prepared the chart and decided on the wording and the diagram, or was it someone else who made those decisions?

A. We had a meeting, and it was jointly done.

Q. Between you and lawyers?

A. Yes.

Q. And when were the charts finalized? I mean, when did they reach this form?

A. I believe I saw them last week for the first time.

Q. You know Dr. Joe Davis, don't you, the long-time medical examiner of Dade County?

A. Yes, I do.

Q. Have you read his testimony in this case?

A. No.

Q. Did you know he testified in this case?

A. No.

Q. You would agree that the American Heart Association is the authoritative association in this country representing cardiologists?

A. I don't think "authoritative" is a good word, but it represents cardiologists as well as lay people

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who are interested in atherosclerosis, heart disease.

Q. And most of the lay people who become interested in heart disease and cardiovascular disease are people who either have or have family members who have heart disease and cardiovascular disease?

A. That's probably true, yes.

Q. I want to refer you to an article, actually it was a presidential address, given by Dr. Oparil, who testified yesterday. The title of this -- then it was published in the magazine, I believe -- I believe Circulation. The title is: Cardiovascular Health at the Crossroads: Outlook for the 21st Century. And this was presented at the 67th Scientific Session of the American Heart Association, November 4, 1994, in Dallas, Texas.

Is that a meeting that you attended?

A. I did not.

Q. Do you usually attend the meetings of the American Heart Association?

A. Not regularly.

MR. HEIM: Your Honor, if we're going to examine on this, we ought to talk about it.

THE COURT: Okay.

(The following proceedings were had at sidebar:)

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MR. HEIM: Your Honor, I thought that this witness testified this morning that he didn't know Dr. Oparil, and he did recognize the journal as authoritative, either. He said: That's not the word I would use for it. That's what I thought he said.

MR. ROSENBLATT: No.

MR. MOSS: Actually, he said the association, American Heart.

MR. HEIM: Okay. For the association. Regardless, unless there's some foundation --

MR. MOSS: Well, I've got -- I don't know where he's going with it, but I think we need to be up here, because if he's going the same place he went with Dr. Oparil yesterday, then I've got an entirely different objection, in addition to the one that Mr. Heim talked about.

If he's going into the statements in there about marketing, then we have a real objection, number one, as to scope; number two, as to competency; and number three, as to using a hearsay document.

THE COURT: What are you going to use it for?

MR. ROSENBLATT: You always --

THE COURT: Sorry about that.

MR. ROSENBLATT: You always get to the bottom line.

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THE COURT: Well --

MR. ROSENBLATT: I want to ask him about that, and I want to ask him if he agrees or disagrees, and certainly the Court can take judicial notice of the fact that the American Heart Association and the president of the American Heart Association, as testified yesterday, it's authoritative.

MR. MOSS: Yes. This is exactly the point we're making.

MR. ROSS: That has nothing to do with his direct, that's for sure. He didn't testify about banning smoking or anything having to do with it.

MR. MOSS: Or marketing.

MR. ROSS: Or marketing.

MR. MOSS: Or advertising.

THE COURT: Just to discourage cigarette smoking, which he says is a great idea, as a major risk factor for cardiovascular disease, and in that light, AHA supports the following.

MR. ROSENBLATT: It all has to do with his recommendation of stopping smoking, which --

THE COURT: Why don't you just simply ask him, you know, what he would recommend: If people want to stop smoking, what kind of a program do you recommend?

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He may disagree with this. He may have a better idea.

MR. MOSS: Well --

THE COURT: Supposing he does come up and says? Yes, I agree with all these things, then what?

MR. MOSS: But how can we let this witness get into recommendations about advertising --

THE COURT: That's what I'm saying.

MR. ROSS: -- and excise taxes? I mean, this is totally beyond the scope. That doesn't have anything to do with stopping smoking.

THE COURT: If that's what your interested in is this one sentence here --

MR. ROSENBLATT: That's right.

THE COURT: But all of the rest of it --

MR. ROSENBLATT: Okay.

THE COURT: In other words --

MR. ROSENBLATT: Well, without this.

THE COURT: I'll sustain the objection on the rest of it. I'll sustain it.

(The sidebar conference was concluded, and the following proceedings were held in open court:)

BY MR. ROSENBLATT:

Q. The Journal of the American Medical Association is recognized throughout medicine in this

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country as an authoritative journal; is that correct?

A. Yes.

Q. And I want to refer you to the March -- to a very recent edition, like last week, March 17, 1999, an article entitled: Perceived Risks of Heart Disease and Cancer Among Cigarette Smokers. The two authors are from the Harvard Medical School, John Ayanian, A-Y-A-N-I-A-N, and Paul Cleary, C-L-E-A-R-Y.

Now, the article says, and I want to ask you if you agree with these statements --

MR. HEIM: Can we have a copy of it?

MR. ROSS: I'd ask him to show the witness a copy.

MR. ROSENBLATT: Wait. I do.

MR. HEIM: Your Honor, while the witness is reviewing it, perhaps we should talk about it for a moment.

(The following proceedings were had at sidebar:)

MR. MOSS: This is the article. If the issue that he wants to cross examine him on is whether or not it is a risk factor, there's parts of it that we don't object to.

MR. HEIM: Correct.

MR. MOSS: But the underlining, which

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Mr. Rosenblatt said that's what he wants to use, you'll see very quickly the reason --

MR. HEIM: Give the Judge a chance to look at it.

MR. MOSS: I'm sorry.

THE COURT: That's all right.

MR. MOSS: You'll see the reason for our objections, because it goes well beyond that. Not there, but here.

It talks about the perception of smokers regarding the relationship or risk, and that certainly is nothing that this witness has offered any testimony on. It is totally outside the scope of anything this witness on direct examination offered.

THE COURT: So if that's the conclusion, I could have written this thing.

MR. ROSS: And because it's outside the scope of this witness' testimony, it's just a way of getting this hearsay document in front of the jury.

MR. HEIM: I think --

MR. ROSS: There's not anything he testified about, perception of smokers.

MR. ROSENBLATT: No, it's not outside the scope, because he discussed that he has patients that he recommends to stop smoking, and they don't.

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And what I'm getting to, after I go through this, is, if you had that experience with your own patients; they don't really think it applies to them. I'm not getting into what the tobacco companies should be telling people.

MR. HEIM: Well, in fact, that's -- it is an issue, because there is a preemption issue here, as well. If you read the conclusion that's underlined, it's suggesting people are not adequately warned.

THE COURT: That doesn't have anything to do with it, because from what I read in the underlining, there's nothing said about warnings or anything.

MR. HEIM: It says --

THE COURT: It says: Most adults continue to smoke and do not recognize or acknowledge an increased personal risk of heart disease or cancer.

That's not a preemption.

MR. MOSS: Well, in any event, Your Honor, it is -- most respectfully it is preemption.

MR. ROSENBLATT: If at first you don't succeed.

MR. MOSS: Wait a minute. It's clearly outside the scope.

The man said on cross that there are -- I have patients who I tell to quit and they don't.

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That's it. How does that lead to that being relevant to anything he testified to?

THE COURT: The question, basically, is the next step on that one is, do th[illegible]nize the risk?

MR. ROSENBLATT: Well, some of them --

THE COURT: Some do and some don't.

MR. MOSS: But that's preemption.

THE COURT: No. That's not preemption.

MR. HEIM: Judge, the reason that it is -- just to finish the thought -- the reason that it is, is what we said before: When the warnings are on the packs, there cannot be any evidence to suggest that smokers are not adequately warned of the health risks. That is suggestive of the idea that --

THE COURT: Not adequately warned, whether they recognize it as a risk. That's an individual assessment of the printed warning.

MR. HEIM: I don't think you can parse it that fine.

THE COURT: It hasn't anything to do with the warnings or anything else. It's someone's perception.

MR. MOSS: Let me ask you, taking that track down, what is that designed to prove in this case? That's the problem.

THE COURT: It's designed to prove the

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conclusion.

MR. MOSS: But what -- that conclusion flies in the face of preemption, Your Honor.

THE COURT: I don't think so. I can't read it that broadly, I'm sorry.

MR. MOSS: The conclusion is despite the warnings, smokers are not aware of the risks.

THE COURT: Well, I disagree with you. As far as that goes, you can do the other.

MR. ROSS: I have a more fundamental, different objection, which is beyond the scope.

THE COURT: They already made it.

MR. ROSS: The witness didn't testify on direct anything about whether people can or can't quit; the only door that was opened on that is cross examination. He asked: Do you have some people that can't quit? Now he wants to go into the reasons.

THE COURT: If you want to get into the area as to whether his patients recognize the risk, or are aware of the risk, or thinks it won't happen to them, or even being aware of the risk, it is still assumed it won't happen to them, that's fair game.

MR. ROSS: That's not this article.

THE COURT: That's as far as it goes.

MR. ROSS: It's not the article.

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MR. ROSENBLATT: It is the article.

MR. ROSS: I'm not sure of your ruling. Can he ask him about his article or his experience with the patients?

THE COURT: Yes.

MR. ROSENBLATT: Both.

(The sidebar conference was concluded, and the following proceedings were held in open court:)

BY MR. ROSENBLATT:

Q. Dr. Gilmore, it's a fairly short article, so I assume you've read most of it or all of it?

A. I've read most of it.

Q. Okay. Do you get the journal, JAMA?

A. I read it in the library.

Q. Okay.

A. It comes weekly, and I can go to the library.

Q. Had you read this article?

A. I had not read this article.

Q. So, let me -- look at the very -- the very first sentence:

Cigarette smoking causes more preventable deaths from cardiovascular disease and cancer than any other modifiable risk factor.

Agree or disagree?

A. It says cardiovascular disease and cancer,

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and the reference is to the government publications, which have concluded the same thing, so I can't disagree or agree.

THE COURT: Doctor, if you'll take the paperwork off the microphone.

THE WITNESS: I'm sorry.

THE COURT: Thank you.

BY MR. ROSENBLATT:

Q. Now, going down on the first page, where it says: Method, Data Collection, and the sentence begins by saying: Following approval of the study protocol by the human studies committee of Harvard Medical School, interviewers from a professional survey --

THE COURT: I didn't really mean to get into all of that. It was just the --

MR. ROSENBLATT: The conclusion.

THE COURT: The conclusions. I mean, the concept was there.

MR. ROSENBLATT: Okay. Fine.

THE COURT: But that is different.

MR. ROSENBLATT: Okay.

BY MR. ROSENBLATT:

Q. Let me go to the last paragraph of this article, Dr. Gilmore, where it says: In conclusion.

Are you with me?

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A. Yes, I am.

Q. Okay. In conclusion, most adults who continue to smoke in the United States do not recognize or acknowledge an increased personal risk of heart disease or cancer. Because smoking remains the most important preventable cause of these diseases in the United States, physicians and public health professionals should educate smokers about their personal health risks as part of comprehensive efforts to promote smoking cessation.

You would certainly agree with that?

A. Yes, I do.

Q. Okay. Now, in terms of your own practice, you have described you have a universal recommendation; you tell all your smokers with heart disease that they should stop smoking. Some of them don't follow your recommendation.

Have you found, in terms of your own patients, and you certainly have seen many, many patients over the years, that, although they may have a general knowledge of danger or a health hazard, somehow they don't really think it applies to them personally? Have you found that, to a certain extent?

A. Let me go back. You said all my patients with heart disease. I tell all my patients with any

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disease to stop smoking.

Q. Okay.

A. And do some of my patients -- I think although they would verbally agree with me, when I give them my pitch, "Please stop smoking," I think many of them feel: "It can't happen to me," or "I'm going to have something else kill me first, so it really doesn't matter."

Q. You think, in all honesty, that the reason so many patients, who have an intellectual understanding that cigarette smoking is dangerous, it's bad for you, but on the same hand don't think it's going to happen to them, don't you think that attitude, in large measure, comes about from the constant representations of the tobacco companies that causation has not been scientifically proven?

MR. NEWSOM: Objection, Your Honor.

MR. MOSS: Objection, Your Honor.

MR. ROSS: Objection.

THE COURT: All right. Let's talk about this for a minute.

(The following proceedings were had at sidebar:)

MR. MOSS: Number one, the question is argumentative. It's outside the scope.

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More importantly, it flies right in the face of preemption. This is neutralization, if there ever was a question.

MR. NEWSOM: It's really a claim that the tobacco company statements undercut the warnings or neutralized the warnings. That's exactly what it is.

MR. ROSENBLATT: You can't ignore their basic defense in this case, which is: Everybody knows. Everybody knows the dangers.

And this question is not being asked in the context that: They should have told you; they should have told you. That's their position. That's their --

THE COURT: The trouble with neutralization, I can't conceive and I can't accept the concept that the law says: We're going to tell them everything we should tell them, but you can't neutralize it. Okay. And yet they go ahead and do it, and then they expect nobody to take them to task for doing it. I don't understand that.

MR. NEWSOM: It is because Congress decided the warnings are adequate.

THE COURT: Congress hasn't decided -- what they've really said is: Don't say anything about it, but if you do, then you've got a problem, and this is where the problem is.

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MR. MOSS: What Congress says is --

THE COURT: You can't neutralize.

MR. MOSS: -- if you place the warnings, that you cannot be held responsible.

MR. NEWSOM: The Supreme Court --

THE COURT: Then you neutralize it.

MR. NEWSOM: You can't make a claim as to neutralization.

THE COURT: Undercut Congress, no matter how you do it, and you're not going to be like that with me. It's wrong. I can't accept that.

MR. MOSS: But the trouble is preemption.

THE COURT: Different interpretation of neutralization. Okay. Neutralization basically is that: It's really not that bad for you.

But this is different. This is saying there's been no causal relationship. That's not neutralization.

MR. HEIM: Judge, what this neutralization thing is -- I understand your reaction to it, but what it is is this. Congress said: Put the warnings on the advertising, as well as on the packs. They said: If you do that, we won't let somebody come in and claim that what your conduct is is neutralizing warnings, or you won't have to worry about that, if you do this.

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And that's why --

THE COURT: But that's -- I can't go with that interpretation.

Now, supposing you just asked the question in the light of, "Do you think that the reason they do that is because," without mentioning tobacco companies, that the issue of causation --

MR. ROSENBLATT: Is clouded by people like you giving the testimony you gave in this case.

THE COURT: Well, I don't want to say that. But something to the effect that since there's a claim that there's no causal connection, that causation has not been proven, do you think that's -- that's not mentioning tobacco.

MR. ROSENBLATT: I can ask him that.

THE COURT: I think that's a general, generic theme.

MR. ROSS: Again, Your Honor, we've been led down this path totally --

THE COURT: They're scientists, scientists other than tobacco companies, and they have said that causation has not been proven.

MR. ROSS: Right. But this is -- in terms of this witness' testimony, it calls for speculation. There's no basis that he knows what's in the mind of

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patients. He might ask him: Did some patient ever tell you something? That's different. Of course, that's hearsay.

THE COURT: That's another story.

MR. ROSS: That's different.

THE COURT: That's another story.

MR. ROSS: Again, we've gone down --

THE COURT: He has to establish whether or not he's had this discussion with these patients.

MR. ROSS: We've gone down this whole path opened up by cross.

THE COURT: You have to lay a predicate first and foremost, whether or not he's even discussed it with them, if he has discussed it with them.

I'd ask the question in general terms without specific discussion about tobacco companies' assertions. I think they're aware of the tobacco companies' assertions, but there are general assertions some place out there, whether among scientists or otherwise, that this causation has not been proven, therefore, maybe the people would take that for a reason for doing what they do.

I'm having a hard time with this whole issue of neutralization in the first place, but I don't want to get into anymore trouble than is necessary with it.

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MR. MOSS: Judge, if we ever get in a box, will you help us with some questions?

THE COURT: Sure.

MR. MOSS: All right.

THE COURT: I'm just trying to figure out a way to do it that none of us gets in trouble. God forbid I grant a motion here. Then what?

MR. HEIM: Oh, God pray that you grant a motion here. Let me pick one.

THE COURT: We'll start all over again, and this is a double and triple expense.

MR. HEIM: Not if you grant decertification.

THE COURT: I haven't granted it yet.

MR. HEIM: You haven't denied it yet.

THE COURT: I haven't denied it yet. But then, again, you'll have a fight with that. It will get us up on appeal. It will be years.

MR. ROSENBLATT: All of these sidebars are just to ingratiate themselves with you, Judge.

MR. MOSS: I don't think my comments do that, Judge.

THE COURT: It works both ways.

MR. ROSENBLATT: I don't call sidebars.

MR. HEIM: A touch of irony there. Okay.

THE COURT: I think if you do it in that

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neutral fashion --

MR. ROSENBLATT: But the great likelihood is the answer I'm going to get.

THE COURT: Well, I don't know what the answer is, but you never ask a question unless you know what the answer is.

MR. ROSENBLATT: That only applies to lawyers who have a staff of thousands.

(The sidebar conference was concluded, and the following pr di: s were held in open court:)

BY MR. ROSENBLATT:

Q. I assume, Dr. Gilmore, that in the course of discussing your very strong recommendation to patients to stop smoking, that you've had some discussions with at least some of these patients who continue to smoke, as to why some of your patients think: Well, you know, it doesn't really apply to me.

Have you had some of those discussions?

A. Yes. A discussion usually -- I ask them: Why do you smoke? And they usually say it either relaxes me or it stimulates me; that is, it makes me able to do my work or live more happily or whatever.

So I'm not usually involved in why they started smoking, but as to why are they continuing to smoke, even though I tell them that smoking is bad for

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them.

Q. And don't you think -- you know, you're -- although you're not a psychiatrist, you're sufficiently familiar with human nature, having dealt with many, many patients over the years, that people have a tendency to rationalize unsafe behavior, if it's something they enjoy doing and they want to keep doing?

A. Yes.

Q. Okay. Now, wouldn't you agree that part of the -- part of what makes it relatively easy for some smokers to continue smoking and ignore the health dangers of smoking is because there is, out there in the public domain, statements by various parties that cause has not been scientifically proven? I mean, it's a great way to rationalize?

A. Well, I would hope that that's not true.

And as I say, there are plenty of statements saying that it does cause, and I think there are two different arenas. That is, if you're talking scientifically, it's not proven. But if you want to be safe, you should stop smoking as the research is performed.

Q. Well, for all you know -- for all you know, Dr. Gilmore, this research has been going on for decades and decades, looking for that perfect animal

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model, looking to find the precise mechanism, and, according to you, it hasn't been found yet, right?

A. That's correct.

Q. May not ever be found, for all you know?

A. That's correct.

Q. And that's why you recommend -- you do the practical, sensible thing -- even though you don't have the precise mechanism that you'd like to have, and even though you don't have the precise animal model that you'd like to have, you do the practical, sensible thing, based on your experience and your lifetime in medicine, stop smoking?

A. That's correct.

Q. I want to ask you some questions about the 1990 Surgeon General's Report. It may be simpler, Doctor, since this is -- this is awfully thick. I'll read to you a statement, and then I'll walk up and show it to you.

A. Thank you.

Q. And then we can, you know, discuss whether you agree or disagree with it.

The 19 --

MR. HEIM: Give us a page.

MR. ROSENBLATT: Okay. Sure.

BY MR. ROSENBLATT:

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Q. The 1990 Surgeon General's Report, the title of it is: The Health Benefits of Smoking Cessation. That's the title. That's the subject -- the overall, general subject of the 1990 Surgeon General's Report.

And, obviously, you agree with the concept?

A. Yes, I do.

Q. You think there are significant benefits, even if someone is a long-time, heavy smoker, to stop smoking?

A. Yes, I do.

Q. Okay.

At the beginning, Roman Numeral VI -- and like I say, I'll show it to you, and I've got it yellowed on the page. But let me read it first.

Coronary heart disease is the leading cause of death in the United States. Smokers have about twice the risk of dying from CHD compared with lifetime nonsmokers. The excess risk is reduced by about half among ex-smokers after only one year of smoking abstinence, and declines gradually thereafter. After 15 years of abstinence, the risk of coronary heart disease is similar to that of persons who have never smoked.

It's the yellowed portion.

A. I have read it, and I agree with it.

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Q. You agree. Okay. Page 191.

I'm on another page now, Doctor, which I'll show you in a moment.

Introduction: Cigarette smoking is firmly established --

MR. ROSS: Where are you?

MR. ROSENBLATT: At the top of the page, 191. The heading is Introduction.

You've got it?

MR. ROSS: Just a moment. Okay.

BY MR. ROSENBLATT:

Q. Cigarette smoking is firmly established as an important cause -- cause of coronary heart disease, arteriosclerotic peripheral vascular disease and stroke. Eliminating smoking presents an opportunity for bringing about a major reduction in the occurrence of coronary heart disease, the leading cause of death in the United States.

And I take it, Doctor, that you would agree with everything that I just read, with the exception, you would use "risk factor" instead of "cause"?

A. That's correct.

Q. Page 197, there is a heading: Smoking Cessation and Coronary Heart Disease.

The last sentence on Page 197.

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MR. ROSENBLATT: Are you there?

MR. ROSS: Yes.

BY MR. ROSENBLATT:

Q. Okay. After an exhaustive review of the data, the 1983 report of the Surgeon General concluded that cigarette smoking is a major cause of coronary heart disease in the United States for both men and women, and should be considered the most important of the known, modifiable risk factors for coronary heart disease. Overall, the report -- referring to the Surgeon General's Report of 1983 -- overall, the report noted that smokers have about a 70 percent excess death rate from coronary heart disease, and heavier smokers have an even greater excess risk.

It's what's yellowed at the bottom and the top of the next page.

A. Well, again, I agree with everything except that they used the word "cause."

And then in the second part of the sentence, they do address it as a modifiable risk factor. And I believe it is a modifiable risk factor.

Q. But you don't agree, and they say after that -- in 1983, they're -- this is the 1990 Surgeon General's Report, but it's referring to the 1983 Surgeon General's Report, and it said that after an

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exhaustive review of the data, they found that cigarette smoking was a cause of coronary heart disease, and that's what you disagree with?

A. Well, because I -- it says, then, the most important of the known modifiable risk factors for CHD. So, they're using the words "risk" and "cause," it seems to me, in an inconsistent manner.

Q. And Page 199 of the 1990 Surgeon General's Report, again, referring to 1983, where the Surgeon General's Report was on cardiovascular disease, let me read as follows, starting at the top of Page 199:

Since 1983, additional evidence is accumulated to further support these conclusions. Some of these data were presented or summarized in the 1989 report of the Surgeon General. For 1985, cigarette smoking was estimated to be responsible for 21 percent of all coronary heart disease deaths in the United States, among men aged 65 years or older, and for 45 percent of coronary heart disease deaths among younger men.

12 percent of the coronary heart disease deaths among women aged 65 or older and 41 percent of those in younger women were attributed to cigarette smoking.

In 1985, 115,000 deaths from coronary heart

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disease were attributed to cigarette smoking.

You have no quarrel with the word "attributed," do you?

A. No. And, again, the figures, I have no quarrel with the figures. I presume that they have done the calculations necessary to arrive at these figures.

Q. And you know and you understand that the Surgeon General's Reports are peer-reviewed, and it takes a long time to put this very large volume together, and a lot of highly qualified people are involved in putting it together?

A. Absolutely.

Q. And, Dr. Gilmore, whether you use "cause" or whether you use "risk factor," in your practice of medicine -- and I think you said over the years you've seen eight to 10,000 patients -- I know not all of them had coronary heart disease, but many of them did, and your universal recommendation is: If you're a smoker, stop?

A. Yes.

MR. ROSENBLATT: Thank you, sir.

THE COURT: Redirect.

REDIRECT EXAMINATION

BY MR. ROSS:

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Q. Dr. Gilmore, you were asked some questions on cross examination about your qualifications and how somebody might learn about finding you. And let me ask you a few more questions about that.

You were, for 13 years, a full-time member of the faculty at the University of Miami teaching cardiology, correct?

A. Yes.

Q. And while you were there, you taught quite a few medical students, who today are cardiologists in South Florida, didn't you?

A. Yes.

Q. And some of those, who are now practicing cardiology in South Florida, are board certified --

MR. ROSENBLATT: Object as leading and speculative.

THE COURT: Well, that is a leading question, I agree.

BY MR. ROSS:

Q. Are some of them board certified?

A. Yes, they are.

Q. Are some of them not board certified?

A. Yes.

THE COURT: Thank you. Go ahead. All right.

BY MR. ROSS:

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Q. And what is the course that you're teaching today, the medical students or the lecture that you're giving today to medical students at the University of Miami?

A. The risk factors in coronary artery disease.

Q. If somebody were to call up the medical school at the University of Miami and want to find out who was teaching that lecture to students today, could they do that?

A. I believe so, yes.

Q. Would the University give them your name?

A. Yes.

Q. You also testified a little bit on cross examination about invasive cardiology and the fact that you send patients to specialists for things like angiograms. Is that unique to you, or is that common to people who practice the kind of cardiology you practice?

A. That's common. We're called clinical cardiologists. We diagnose, take histories, but we don't do invasive work.

Many of the invasive cardiologists do nothing else. They see patients only for cardiac catheterization and only invasive procedures.

Q. I'll put this chart back up here for a

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moment.

You were asked some questions on cross examination about the increased risk of, I believe the question was, heart attack from smoking. Is that correct?

A. I believe so.

Q. And I think you agreed that the increased risk was about 60 percent?

A. Yes.

Q. And are you familiar with the term "relative risk"?

A. Yes.

Q. Is a 60 percent increased risk the same thing as saying a relative risk of 1.6?

A. Yes, it is.

Q. Dr. Gilmore, is the increased risk of heart attack to someone from hyperlipidemia about the same as that?

A. It's about the same.

Q. Is the increased risk of heart attack to someone from obesity about the same as 60 percent?

A. It's about the same.

Q. Is the increased risk to somebody of a heart attack from a sedentary lifestyle the same?

A. It's about the same.

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Q. Is the increased risk from excessive use of alcohol about the same?

A. Alcohol, I couldn't give you a figure. It's in such a state of flux that I could not say what the relative risk of alcohol is. It's dose-dependent, and I don't know.

Q. All right. Now, you were asked some questions a few moments ago about a Surgeon General's Report, and you told us some of the things that you disagreed with in the statement that was read to you, but let me ask you about something else.

You were also -- part of the sentence that was read to you was a sentence that said: Smoking should be considered the most important modifiable risk.

Given what you've just told us, do you think that smoking is a more important modifiable risk than the other ones we've just talked about?

A. Well, I think they're all important, and I think the Surgeon General's -- the Surgeon General's Report refers -- at least when it was written, that smoking was a very common one but had about the same relative risk, but because more people were involved with smoking, it is listed as the most. And in many of those statements, particularly the JAMA article from

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last week, it says smoking and cancer. So they're lumping them together.

In other words, it's difficult for me to say one of these is more important than the other.

Q. Do you know whether today there are more people involved in smoking than may have hyperlipidemia?

A. Well, certainly I think obesity is more common than smoking, and hypertension is certainly close to the same number, and probably there are more people with hypertension than there are smokers.

Q. You were also asked some questions about attributable deaths. Do you remember that?

A. Yes.

Q. And you said you didn't have any quarrel with the word "attributed," but do you have any basis of knowledge to whether or not the numbers that are in that report are accurate or not?

A. No. I have no personal knowledge.

By the way, while we're on the subject of Surgeon General's Reports, you were asked some questions by Mr. Rosenblatt about and you talked about the Surgeon General's Report on physical activity and health. Do you remember that? Mr. Rosenblatt asked you a number of times: Was there such a report?

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A. Yes. That was this morning, and there was such a report.

Q. Dr. Gilmore, is that the Surgeon General's Report that you were talking about?

A. It's in a different format than I've seen it, but this is a report from the Surgeon General on physical activity and health.

Q. And you were also asked some questions, and you referred to the fact that the Surgeon General had done a report on nutrition and health as well, and though I don't have the whole book, I do have a little piece of it, a Xerox of a little piece of it.

And let me just ask you, can you identify -- is this a portion of the Surgeon General's Report on nutrition and health?

A. Yes, it is.

Q. Now, we talked a few moments ago about the relative risks of these different modifiable factors and how they compare to smoking. Let me ask you -- I'm sorry. I don't have a copy of this. This is the only copy. That paragraph right there.

MR. ROSS: I'll have this marked for I.D. We can do it afterwards, if you want.

BY MR. ROSS:

Q. Mr. Gilmore, let me just ask you to look

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at -- this is I think the very first page of the Surgeon General's Report on nutrition and health, 1988, and it's the first page entitled Message from the Surgeon General.

Would you just read to the jury the third paragraph of the Surgeon General's Report in 1988 that's highlighted there?

A. It states: The Surgeon General's Report on nutrition and health follows the tradition of the original report on smoking and health. It addresses an area of some controversy and substantial misunderstanding. And the relative magnitude of the associated health concerns is comparable with dietary factors playing a prominent role in five of the ten leading causes of death for Americans.

In addition, the depth of scientific basis -- of science basis underlying its findings is even more impressive than that for the tobacco and health in 1964 --

Q. Okay. You don't have to read the rest. I just wanted that paragraph.

MR. ROSENBLATT: Was that --

MR. ROSS: I'm sorry. You didn't finish that sentence.

MR. ROSENBLATT: Was that word "derth" that

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the doctor read? Derth?

THE WITNESS: I'm going to repeat the sentence.

BY MR. ROSS:

Q. Go ahead and finish the sense.

A. In addition, the depth of science base underlying its findings is even more impressive than that for tobacco and health in 1964, with animal and clinical evidence adding to the epidemiologic studies.

Q. And the animal and epidemiologic studies they're talking about here are on nutrition and health, correct?

A. Yes.

Q. You were asked some questions about what you tell to your patients about stopping smoking, and then you were asked some questions along the lines that some of your patients don't stop even though you tell them.

You also -- do you tell your patients to do something to change their cholesterol?

A. I ask them to diet and exercise. If they do does not respond, I ask them to take a medication to lower cholesterol.

Q. And have you been successful in getting your patients to diet and exercise?

A. Very infrequently. It's difficult to get

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patients to lose weight or to exercise regularly.

Q. As a matter of fact, Dr. Gilmore, which have you had, in your own practice, more success with getting your patients to stop smoking or getting your patients to change their diet and exercise?

A. It's all about the same. It's probably about the same for smoking, diet. Exercise would even be worse. That is, I have a very low rate of getting patients to exercise regularly.

Q. You were asked a number of questions about testimony that you've given in other types of matters, workmen's compensation matters.

Have you, in fact, been contacted by both plaintiffs and defense lawyers in workmen's compensation matters?

A. Yes, I have. Yes.

Q. And have you actually been retained by both plaintiff's and defense lawyers in workmen's compensation matters?

A. Yes, I have.

Q. About what percentage of the time have you been retained by plaintiff's lawyers?

A. Plaintiff lawyers is probably ten percent, and defense lawyers 90 percent. It's close to that.

Q. If a defense lawyer came to you with a

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workmen's compensation file to review, you review the file and you give that defense lawyer your honest opinion as to the cause of the particular illness or injury involved, correct?

A. That's correct, yes.

Q. And sometimes you're called to testify in a trial as a result of that consult, and sometimes you're not?

A. Yes.

Q. You might not be called for a lot of reasons, correct?

A. That's correct.

Q. The case might settle?

A. That's the common thing, is that the case settles.

Q. Now, if a plaintiff's lawyer comes to you, as they have, a plaintiff's lawyer such as Mr. Rosenblatt, you would talk to them, right?

A. Yes.

Q. And you'd review the file?

A. Yes.

Q. And you'd give the same honest opinion to the plaintiff's lawyer about whether or not the injury is or isn't caused by the work situation involved, correct?

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A. Yes.

Q. And, again, you may or may not be called to testify by the plaintiff's lawyer, depending on whatever may happen in the course of that case?

A. That's correct.

Q. Dr. Gilmore, about what percentage of your income is related to testifying in cases like that?

A. I don't know, but it would be less than 15 percent. That would be all the workmen's comp. And medical/legal would probably be less than 15 percent.

Q. Now, you were asked some questions about how much you had charged and been paid for consulting on cases related to tobacco. But let me ask you specifically, how much time have you spent on this case that we're here for today?

A. I can't give it in hours, but I have reviewed two cases that were related, apparently, to this case, and that was probably 7 or $8,000, and then related to this case, it's probably been 8 to $10,000.

Q. When you say you've reviewed some cases, that was some individual cases and their particular medical -- individual medical problems?

A. Right. Two individual cases.

Q. Okay. And that portion of your work, does that have anything to do with the testimony you've

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given here today?

A. Not related.

Q. Okay. So then how much have you been reimbursed for your time related to the testimony that you've given here today?

A. I think it's been 20 and 25 hours, and it's about $8,000, I think.

Q. Now, you were asked a number of questions about Buerger's disease. Is Beurger's disease a very, very rare disease?

A. It's a very rare disease.

Q. In your personal practice over the last 40 years, how many cases of Buerger's or suspected Buerger's disease have you been involved with?

A. I have not seen a case since I've been in private practice.

When I was at the medical school, we were responsible for patients at the Veterans' Administration Hospital, and that's a likely place to see cases of Buerger's disease.

Q. And, finally, Dr. Gilmore, a couple of questions back on this issue of cause and risk factors.

You were asked some questions by Mr. Rosenblatt about an analogy involving AIDS, and you said the whole AIDS situation is complicated.

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But let me ask you one question and see if this is complicated. Do you, in fact, have to have the HIV virus in order to get AIDS?

A. Yes, you do.

Q. And that's distinct from what you're talking about here, because you don't have to smoke to get atherosclerosis, do you?

A. That's correct.

Q. You were also asked about the Surgeon General's use of the word "cause," the use of the word "risk factor," and the use of it almost within the same sentence in that one thing that was read to you.

Dr. Gilmore, based upon all of your years of experience in this field, the medical practice, your teachings about risk factors today, your review of the literature, from the perspective of science and what is scientifically proven, what is the correct term, in your opinion, "cause" or "risk factor"?

A. Scientifically, we're still using the classification of risk factor.

MR. ROSS: Thank you, Dr. Gilmore. I have no further questions.

THE COURT: All right, Doctor. You may step down. Thank you very much.

All right. We'll take a recess at this time,

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folks.

(The jury exited the courtroom.)

THE COURT: All right. We will be in short recess.

Is your witness available?

MR. HEIM: Your Honor, he should -- I told him to stay outside, so I'm guessing that he's outside.

THE COURT: Okay.

(A brief recess was taken.)

THE COURT: Let's bring the jury in.

(The jury entered the courtroom.)

THE COURT: Okay. We're ready to go. I think we have another witness.

MR. HEIM: I do, Your Honor.

Defense calls Richard Carchman.

THE COURT: If you'll have a seat up here, sir.

Thereupon:

RICHARD A. CARCHMAN, PH.D.

having been called as a witness, was duly sworn, examined, and testified as follows:

MR. HEIM: Good afternoon, everyone.

JURY PANEL: Good afternoon.

DIRECT EXAMINATION

BY MR. HEIM:

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Q. Would you please introduce yourself to the jury:

A. My name is Richard Carchman.

Q. And for the court reporter, why don't you spell your name?

A. Richard, R-I-C-H-A-R-D, Carchman, C-A-R-C-H-M-A-N.

Q. And you have a doctorate degree in pharmacology, correct?

A. Yes, sir.

Q. Okay. As we use the term in this courtroom, the correct address would be Dr. Carchman?

A. If you want. That's all right.

Q. And you have been -- you were employed, Dr. Carchman, by Philip Morris for, what, about ten years?

A. Yes.

Q. And you retired recently?

A. February.

Q. February of 1999?

A. Yes.

Q. Now, what I'm going to do is go through your curriculum vitae. The jury is familiar with it. And yours is quite a few pages long, but we'll take it in pieces. Okay.

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You have a bachelor of science degree. Where did you get that degree?

A. Long Island University.

Q. And what subject did you study, Dr. Carchman?

A. Biology and chemistry.

Q. Okay. And then the next degree that I see on here is a Ph.D., a doctorate level degree in pharmacology?

A. Yes.

Q. And where did you get that degree?

A. Downstate Medical Center, part of the State University of New York.

Q. Okay. Now, your bachelor of science degree was in 1966, and your doctorate degree in pharmacology in 1972?

A. Yes.

Q. Tell the jury what pharmacology is.

A. It's the study of how drugs affect the body. It really comes from the discipline of physiology: how the heart, the muscle, the nerves, the brain works. In the evolution of physiology to pharmacology, the physiologist would take a knife and cut a nerve and see which fingers went down. Well, pharmacologists, instead of cutting a nerve, would use a drug and see what happens to the heart, what happens to the muscle,

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et cetera.

And normally speaking, those kinds of developments oftentime lead to drugs that people use for either diagnosis or some treatment of a disease.

Q. Now, your CV shows that you did post-doctoral work in molecular biology, and under -- with whom did you do your post-doctoral work?

A. It was at the laboratory of molecular biology at the National Cancer Institute, which is part of the National Institutes of Health, which is a very large government reservation that's primarily based in Bethesda, Maryland. It's scattered in other places, but the main campus is in Maryland, outside of Washington.

Q. And the subject of molecular biology, is that distinct from pharmacology?

A. Not -- not really. There are pharmacologists who do molecular biology. There are biochemists, microbiologists.

In terms of what I was doing in the laboratory, I was looking at the molecular mechanisms associated with cancer.

Q. And you were doing that work with the molecular mechanisms associated with cancer at the National Cancer Institute?

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A. Yes.

Q. Now, I notice that you show that you were a technical research assistant at the Institute for Cancer Research at Columbia University from 1964 to 1968, which is also the same period of time, according to this, that you were in college, so how did that work out, that you were doing your college work and working at the Institute for Cancer Research?

A. Well, I entered college in 1960. I graduated in '66. I basically had to put my way through school, and so I was employed during that whole period of time.

And in '64, I was very fortunate to get a job at the institute. And I stayed at the institute after I graduated from college, which is why it took me so long -- one of the reasons it took me so long to graduate.

Q. And what does the or what did you do at the Institute for Cancer Research?

A. I worked in the laboratory of Dr. Eric Hirschberg, whose primary appointment was in biochemistry at Columbia, but he was -- his laboratories were based at the institute, which was basically in uptown Manhattan, 164th, 168th Street, and I worked in his laboratory, but collaborated with several other scientists at the institute, as well.

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Q. Now, you show that you were a National Institute of Health pre-doctoral fellow, and a post-doctoral fellow at the National Institute of -- National Institute of Health, National Cancer Institute, in the molecular biology area. What were you doing during that period of time? That takes you up to 1974.

A. When I was at the National Cancer Institute, I applied for and won a competitive award that paid for my -- for my salary, and I spent several years up there looking at what makes cells cancer -- become cancer cells, and looking at mechanisms to reverse that process. And I'm not talking about drugs. I'm talking about molecular -- molecular mechanisms for doing that.

Q. So you were looking at -- we've heard terms like the etiology of disease. Is that what you were doing with cancer cells?

A. We were looking -- this was the beginning of our understanding of oncogenes, genes in cells that are apparently important for cancer signals, and this is really before the emergence of a true understanding of that.

And so we were looking at some elements. A lot of them are virus -- virus-derived, where really mostly oncogenes come from, in terms of using this to

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understand what signals are important for a cell to go from a normal cell to a cancer cell, and actually from a cancer cell back to a normal cell.

Q. Now, after you left the National Cancer Institute, it appears like you went to become a professor, and you -- you were with the Medical College of Virginia for some years?

A. Yes.

Q. Okay. And that's -- it says MCV. That's Medical College of Virginia. VCU, what's the VCU part of that?

A. Virginia Commonwealth University. It's one of the state universities in Virginia, and one of the medical schools, state medical schools in Virginia, as well.

Q. Now, you were an assistant professor of pharmacology and toxicology in your first teaching work?

A. I was recruited by the chairman of the department in -- in '74 to not simply teach but to develop a research program, as well.

Q. Okay. And what research program did you develop?

A. It was sort of a continuation of some of the work I was involved in at Columbia, and then at the

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National Cancer Institute, and that had to do with biochemical and molecular mechanisms that were important with respect to cancer.

Q. And did you develop that research program for the Medical College of Virginia?

A. Yes.

Q. You had a joint appointment as an associate professor in biostatistics. What -- well, before I go to biostatistics, I mentioned pharmacology, and you told the jury what that is.

Toxicology, you also taught toxicology. What is toxicology, as opposed to pharmacology? Or did I ask you that already?

A. No. I don't think you did.

Q. All these "ologies" --

A. It's just another "ologist."

Q. -- get confusing.

A. "Ology" is the study of something.

Q. Right.

A. So toxicology is sort of the kissing cousin of pharmacology and physiology, where a pharmacologist would look to understand how a drug or chemical works for a therapeutic aspect, for drug treatment. For example, a toxicologist would look to see what the bad effects, the adverse effects of chemicals or other

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things would be on the body.

And oftentimes, when you take a drug, it will have a warning. It will say: Adverse Effects: Don't take this drug when you drink milk or dairy products or drink alcohol.

And so toxicologists are oftentimes involved in that.

But it's a feedback, because sometimes these side effects turn out to be new drugs that people end up using for some other problem. So that physiology, pharmacology, toxicology are very closely related to each other.

Q. How about biostatistics? Since you had an appointment as an associate professor on the subject of biostatitics, tell the jury what biostatistics are.

A. Well, "bio" is biology, life, and "statistics" has to do with mathematical and statistical ways of understanding information and observations that we make.

So, for example, in epidemiology studies, they use a lot of mathematics and statistics. So normally speaking, epidemiologists are trained in the area of biostatistics. If you do a clinical trial and you have subjects in a variety of hospitals on a variety of different kinds of treatments, it's the

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biostatistician that's involved in helping design the study with a clinician or the scientist, and then helping analyze the study at the end -- at the end of the day.

Q. So, there's a lot of math, a lot of math?

A. Yes.

Q. Now, you eventually -- you were an assistant professor and then an associate professor. Is that higher?

A. Yes.

Q. And then you became a full professor of pharmacology and toxicology in 1986 at the Medical College of Virginia?

A. Yes.

Q. And then it says that you were the associate scientific director of the Massey Cancer Center.

What is the Massey Cancer Center?

A. First of all, Massey is named after one of the large financial supporters of the medical school. But the center itself was a National Cancer Institute-funded comprehensive center. There aren't very many of those in the United States.

And the center's purpose was to treat patients, bring together clinicians with scientists, and develop a relationship that would facilitate, one,

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our understanding of the science, but also potentially facilitate treatment of patients and the development of both scientists and clinicians and surgeons.

Q. And what did you do there, Dr. Carchman, as associate director at the Massey Cancer Center? What was your work?

I looked at myself as a facilitator. I had developed, over the years, very good relationships between the different departments, basic scientists like myself and a variety of physicians and su: ns. Not just at the medical school, but around the untry and around the world.

And my goal was to try to bring the right kinds of people together to try to meet the objectives of the center.

Q. And the objectives of the center were what?

A. Was the development and better understanding of the science, implementation of that into some improved treatment, and the development of basic scientists who would grow into scientists interested in this area, and the development of clinicians and surgeons that would also stay interested and continue to work in this area.

Q. And the area is treatment of cancer?

A. And understanding the causes of cancer and

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the mechanisms involved.

Q. Now, in 1988, you -- actually, it looks like early 1999 or late 1988, you went to work at Philip Morris, correct?

A. 1989.

Q. 1989. All right. It's hard to tell.

And did you go as a full-time employee at Philip Morris? How did that come about?

A. No. I had done some consulting work for Philip Morris several years before, and actually had met a number of their scientists. They would come to the medical school. They would take courses. They would go to seminars. So you got to meet some of these folks.

And in 1988, I was asked if I would like to join research and development, and I really wasn't sure. I'd spent my whole life, my CV, on medical school college for about 15 years, and I said: I don't know.

So I went and I spoke to my chairman and I spoke to my dean and I said: "This could be an interesting opportunity, but I'm not sure. Could I take a sabbatical?" which is sort of like a leave of absence. And they both said, okay, which meant if it didn't work out, if I didn't like them or they didn't

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like me, I can come back, and it would not be -- it wouldn't be a problem.

Q. Okay. And how long was the leave of absence period?

A. A year.

Q. And did Philip Morris understand that this was a leave of absence year for you?

A. Yes.

Q. So as you look -- it was kind of a try-out for you?

A. Absolutely.

Q. And what different positions have you held at Philip Morris over the course of January or so of 1989, up until the time you retired?

A. I was what was called a principal scientist, which is, if not the highest, one of the highest technical positions in research and development.

And then I did a short stint as a manager of a -- of a group -- I had -- the first year and a half or so, it was just me. I had nobody reporting to me. It was wonderful. And then after that, I became manager of biochemical research, but I still had all of my other responsibilities. And I did that for a year and a half.

And then I became a director of scientific

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affairs, and I did that for a couple of years. And I became group director of scientific affairs, and then I did that for a year or so. Then I became vice president of scientific affairs, did that for a little bit of time, and then I became vice president of worldwide scientific affairs.

And then I became a vice president in research development and engineering, and then I retired.

Q. That's a quick tour through your time at Philip Morris?

A. Yes.

Q. Now, Dr. Carchman, did you continue to work on things for the National Cancer Institute after you joined Philip Morris?

A. Yes.

Q. And what did you continue to work on for NCI?

A. Well, when I -- when I left medical school, I had several years' worth of government grants and contracts that would run for a few years after I left.

I had graduate students, I had post-doctoral fellows in the lab. I had some committees I was still asked to serve on. And so I continued to serve on them while I was still at Philip Morris.

Q. And over the course of time before joining

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Philip Morris, did you do any work for the Department of Defense?

A. Yes.

Q. What work did you do for the government?

A. For the Department of Defense, I was involved in helping them develop antidotes for both military and civilian personnel with regard to toxic nerve agents, poison gases; the kinds of things that were used by the Iraqis against the Iranians, and were used in Japan, for example; recently, the kinds of things that the Nazis developed in World War II that they used in the Holocaust.

Q. You worked on that -- was that prior to joining Philip Morris?

A. Yes.

Q. And did you continue to do any work for the Department of Defense after joining Philip Morris?

A. Yes. I mean, I had a very large grant from the Department of Defense that ran for more than two years after -- after I left, and I continued -- I continued to work on that.

Q. Now, while you were at Philip Morris, were you asked to work on any commissions, any government boards, that were looking at issues involving smoking, smoking and health?

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A. The one that comes to my mind, last year I was asked by the Canadian Department of Health to serve on a committee to develop a potentially less toxic cigarette.

I went up to Toronto; I made several presentations. And that work is going to be published any time now by the Canadian Department of Health.

Q. Are you continuing to work on that even after having left Philip Morris?

A. Yes.

Q. And do you work with other scientists that are not from tobacco companies in that work with -- what's the name of the organization?

A. It's -- well, it's part of the Canadian Department of Health, and --

Q. So it's part of the Canadian government?

A. Yes. Yes. I'm sorry if I wasn't clear. Yes.

Q. And do scientists not connected with tobacco companies work on that as well?

A. The vast majority are what I would call public health scientists.

Q. Let me ask you some questions. Let me ask you some questions about some of the other things on your resume, on your CV.

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Under Memberships, you list the -- well, you have a bunch of them, but let me just pick out a few. American Society of Pharmacology and Experimental Therapeutics.

What is that organization?

A. It's the premier organization for pharmacologists in the world. It's based in the United States.

Q. How about the American College of Toxicology?

A. That's one of the two largest toxicology organizations in the United States. I'm a member of that as well.

Q. The Society of Toxicology?

A. That is probably the largest and probably the premier toxicology professional society in the world today.

Q. How about the American Association for Cancer Research?

A. That is one of the largest cancer research organizations in the United States, and it, too, has international affiliates.

Q. Then you show some other organizations. Let me just pick out a few and give the jury some sense of the different things that you've been doing.

The National Academy of Science, the National

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Research Council Committee.

What is that?

A. Congress, the United States Congress, helped set up these committees, the National Academy, National Research Council Committees, and I was asked, I guess a couple of years ago now, to serve on a committee that was trying to advise the government on some sensitive health issues with regard to the disposal of some of these toxic nerve agents that are scattered all over the country, United States.

Q. So these are storage facilities for toxic substances, and the question is, how do you get rid of these things? Is that --

A. Yes.

Q. What's Health Canada Expert Panel?

A. The Health Canada Expert Panel is the one we just went over in terms of where I served and presented some information in terms of what Philip Morris does with regard to testing its products.

Q. Okay. Let me skip ahead.

I see it says you edited a particular volume of the Journal of the American College of Toxicology. Is that a peer-reviewed journal?

A. Yes.

Q. Well, what does that mean, to edit the

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volume?

A. What I did was I chaired a meeting at the pharmacology -- one of the pharmacology meetings, and I brought together at this meeting some of the prominent scientists in the world who were evaluating drug interactions.

And so there were clinicians, pharmacologists, biostaticians, and I got the Department of the Army to basically fund the publication of this book, because they were very interested in having available to them techniques that they could use in designing and analyzing studies that they wanted -- they wanted done.

So, this was a meeting. It was a nice meeting. It was held in Hawaii. And I basically put together that meeting, and I got the authors to submit articles. And then with the American College of Toxicology, those articles were submitted. They were peer-reviewed, and it was published in an entire issue of the journal.

Q. Did you get to pick Hawaii?

A. I did.

Q. Good pick.

Let me ask you about some of your speeches. I'm skipping along in your CV here.

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And I've just picked out a few of them, to give -- it looks to me like you've given, you know, 30, 40; I haven't counted.

How about this People's Republic of China in August of 1987, what is that all about?

A. I was invited by the Chinese government to go over and talk about my work at several of the medical schools. I went to be Beijing and spoke to several of the medical schools there, and Xian, Chengdu and Chongqing and Shanghai, and aside from losing 20 pounds, only because they didn't have any deserts I liked over there, I brought back with me about six Chinese students; two-thirds of which were physicians and two of them were people, young Chinese scientists, looking to get their Ph.D.'s.

Q. Did they go on and get their Ph.D.'s?

A. Yes. Both the physicians got their Ph.D.'s, as well as already having their M.D.'s, and the two in training got their Ph.D.'s.

Q. How about Center for Innovative Technology, Talk on Tumor Promotors?

A. The Center for Innovative Technology, CIT, is a state-run facility. It's a really strange-looking building out of the Dullas Airport outside of Washington.

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And the purpose of that is to develop entrepreneurial relationships between scientists, physicians and business. That is, if somebody has an idea for developing a new diagnostic technique or a new kind of treatment, the state facilitates getting these kinds of people and their ideas together with people that have some business sense and that could implement it.

Q. And that was a presentation you gave there?

A. Yes. And actually, I served on their board while I was at Philip Morris, in terms of being an industry representative.

Q. I see you gave a talk at the Johns Hopkins Oncology Center in Baltimore, Maryland, in October of 1995, on environmental toxicity and the aging process. What was that about?

A. The National Institute on Aging was a relatively new institute at the National Institutes of Health, and the head of the agency, Bob Spencer, put together this meeting where he invited people, experts in a variety of areas from all over the United States, to sit down and talk about what aging was and how you could control aging and what kinds of things made you age quicker and what kinds of things made you age better.

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And the result of that was a book that was published by all of the presenters at that meeting.

Q. Do you want to give us a quick clue as to how not to age quick?

A. I wish I knew.

Q. All right. You were an invited speaker at the Virginia Heart Institute. What was that about?

A. I had applied for and received research support from the American Heart Association, the Virginia branch, and the work that I was doing, the head of the Virginia Heart Institute is a clinician, and he had this interesting program where if you were funded by the American Heart Association, he would invite you to the institute to give a presentation on your work to his staff, the other physicians, the other folks that were there.

It was actually both a continuing education-type service for him, as well as a heightened awareness for me in terms of what, if anything, I'm doing might relate to cardiovascular disease.

Q. Dr. Carchman, I'm just picking a few things out of each category here. Let's see. You've done different kinds of things for agencies of the Federal Government. And one that we've heard a little bit about, it says: Consultant, Center for Disease

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Control, Center for Environmental Health and Injury Control. What did you do for the Center for Disease Control?

A. Working with one of the Assistant U.S. Surgeon Generals who was responsible here. This was another way of trying to deal with the disposal of these very toxic materials that were in various parts of the United States. I was part of a group of individuals that were trying to address -- address this issue.

Q. So that's what you were telling us about before?

A. That -- no. That was another committee trying to address a similar type -- a same kind of problem.

Q. Then it says: Consultant, National Institute of Health, epilepsy branch. What were you doing in the field of epilepsy?

A. That wonderful meeting in Hawaii, it turns out that there were folks from the National Institutes of Health, from the epilepsy branch, that liked what I was trying to do, and they came up to me and they said: Gee, can you work with us and help us in terms of the treatment of epilepsy?

They used single drugs and they weren't

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getting the kinds of effects they wanted to get. They wanted to use more than one drug, combinations of drugs. And they thought that maybe I could help them with that.

And so I worked with the folks from the epilepsy branch and with a wonderful fellow in -- recently deceased, Ewart Swinyard in Utah, almost 90 years old, and he was still cranking out science.

And so the three of us NIH guys, myself and Ewart, got together and we did some work on this, and actually helped set the foundation for the use of how you would do multiple drug treatment with regard to epilepsy. We published the paper. We published a book.

Q. Let me ask you about some of your papers, and I mean only some, because on your curriculum vitae you have 90 manuscripts, and I wanted to ask you about a number of them.

Many of them, if not most of them, are -- you've coauthored with other people. How do you come to co-author a scientific manuscript like this?

A. Different -- different people do it different -- different ways. From the very -- from the very beginning, my approach was that if somebody contributed in a significant way to the paper, if

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somebody helped write the paper -- and I dealt with graduate students, people who were starting out, post-docs, people who had gotten their degrees and people that were trying to build a career, so they were scientists, young physicians, who tried to learn -- if they played an important enough role and wrote the thing, or at least the first draft, they were the first author.

In the world I come from, the important people are usually the first author or the last author. The last author, again, in my world, is the senior person and whose laboratory it is.

So if you look through my resume, most of the people -- not all, but most of the people who were first authors are former graduate students, post-docs, or young physicians, that I was involved in as part of my training responsibilities.

Q. Let me just ask you about a handful or less of them, because there are so many. One was in the American Journal of Pathology in 1984, having to do with adult respiratory disease syndrome.

Does that -- if I ask you about one and it doesn't ring a bell, just tell me and I'll just go on. Does that ring a bell to you at all?

A. Oh, sure. Sure. ARDS, adult respiratory

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distress syndrome, is usually a fatal disease that people can get, and this work was a result of a relationship I had with the department of pulmonology.

The chairman of the department came over to me and said: Look, I've got some young guys coming in. They have finished. They got their medical degree. They've done their residency and they've actually done a little research somewhere. They're coming into the department. Could they spend some time with you? It could be anywhere from a year to a couple of years.

And so the first author on that paper is Fowler --

Q. Right.

A. -- Berry Fowler, Alsbury Fowler, III, but Berry Fowler is a clinical pulmonologist, and he came and worked in my laboratory for several years, and that was one of the papers we published.

And he actually got involved as we started doing work for the Department of Defense as well.

Q. When you say a clinical pulmonologist, what's a clinical pulmonologist? A pulmonologist is somebody that treats lung disease?

A. That's right.

Q. What's a clinical pulmonologist?

A. He worked at the medical school in that

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department, and he treats patients both at the medical school and at the Veterans' -- very large Veterans' Hospital. So he had a joint appointment in both places.

And he wanted to -- he wanted to improve his treatment and clinical skills, and so he worked -- we worked together. He worked in my laboratory for a number of years.

Q. So in the world of medicine and science, the word "clinician" means somebody who actually treats patients?

A. Yes.

Q. How about a work in 1987 in the Journal of Biological Chemistry? Did I get the name of that right? Is that a peer-reviewed journal?

A. It's the premier journal in the area.

Q. It's the number one journal in that area?

A. Yes.

Q. Okay. And this -- this had to do with phorbol esters and opsonized zymosan. What does that have to do with anything?

A. That's a question that I ask myself sometimes, is, well, in that -- that was a paper that was a result of one of my graduate students, I think Bonnie Kelly, and this was her doctoral thesis. And

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she wrote that up and submitted it. And it was accepted and they published it.

And it had to do with a class of compounds called phorbol esters. Christmastime, I guess they have Christmas down here, they don't have snow, but you have Christmas trees, and you have one of those plants that are -- that are red.

MS. LUTHER: Poinsettias.

Q. Poinsettias.

A. Those plants contain the kind of material -- it's a highly irritating material, they're tumor promotors. So -- they don't cause cancer by themselves, but if you have a compound that causes cancer and you have one cancer cell, this substance will get them to grow into lots of cancer, it promotes -- it promotes cancer.

And so this is what I will call a prototypical -- it's a prototype drug, chemical, for tumor promotion. And tumor promotion is one of the important aspects of the whole process of carcinogenesis.

Q. You published in a journal called Leukemia Research, an article having to do with Childhood Acute Lymphocytic Leukemia Cells. What was that about?

A. Yes. That's a clinical journal, unlike the

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previous journal, which is a basic science journal.

And Gita Massey, who is the first author on that, at the time was a young pediatrician in the department of hematology and oncology, so she treated little kids. She was a hematologist, a blood doctor, but an oncologist, somebody who treats cancer. So most of her patients are young, young kids with leukemia or some other kind of lymphatic disease.

And so she worked in my lab for several -- for several years trying to become a scientist. And that particular, that particular -- that particular study, she would come over usually with cancer cells from some of her kids, and we would -- we would study them.

And in that particular study, which we published, we had found a way of taking these malignant cancer cells and getting them to differentiate the change from cancer cells to noncancer cells, so we published those results and what we thought they meant at the time.

Q. You published -- there are a lot of different journals, and I'm just picking them out by journal titles. Dr. Carchman, Archives of Surgery, published in the Archives of Surgery. You're not a surgeon, right?

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A. No.
Q. You're not a medical doctor?
A. No.
Q. What were you publishing in the Archives of Surgery?
A. Paul Baron is the first author on it.
Q. Correct.
A. I think Dave Koretz is the second. And these are two young clinical guys, oncologists. And Paul Baron is a surgical oncologist, coming from the department of surgical oncology. So if you have cancer and they can operate it and remove it, it would be this kind of person that would do it.

His boss was a fellow named Dr. Walter Lawrence, who also was, for a time, the head of the American Cancer Society. And Dr. Lawrence asked me if Dave and Paul could come spend some time in my laboratory and learn some techniques, and they did, and this is one of the papers they published.

And Paul went to Sloan-Kettering in New York, and Dave went to the University of Alabama in Birmingham, to do clinical -- clinical oncology and research.

Q. Oncology is --
A. The study of cancer.

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Q. The study of cancer.

So Mr. -- Dr. Baron as a surgical oncologist, he's a cancer surgeon.

A. That's right.

Q. We'll just do one more. In the Journal of Cancer. Just Cancer. In 1991, you're listed at one of the authors on the study of Castleman's disease in the adolescent female. What was that about?

A. This is Dr. Gita Massey, the pediatric hematologist/oncologist, and she had a patient with an unusual disease. Castleman is named after a pathologist who died, I think, in 1982, and it's a disease of the lymph system.

And she had material from this patient, and some of the techniques that she learned in my laboratory she applied to the material from this individual, and provided some new information that hadn't been published, and so that resulted in a publication in '91.

Q. Now, you've written -- you've been the author of some chapters in books, as well as in medical journals?

A. Yes.

Q. And I'm just going to ask you about a couple of the books where you've been an author. You were an

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author of a book: The Control Processes in Neoplasia. What is that about?

A. I was invited -- this is when I was at the National Cancer Institute. I was invited to a meeting to present the results of the work I'd been doing for the last couple of years in the laboratory of molecular biology, and that chapter in the book provided some -- some information as to some of the work I was doing at the NCI.

Q. Doctor, since there's been in the news lately about the medical uses of marijuana, I see you published on the subject of marijuana: The Biological Effects. Did that have to do with the medical effects of marijuana?

A. Yes. Sometimes it's a funny world. Now there is renewed interest in the use of marijuana for treating certain kinds of diseases besides glaucoma, but also certain forms of cancer.

It's not new. It was originally based on anecdotal, nonscientific information. For anybody that knows anybody or anybody that's ever smoked or eaten marijuana, one of the side effects, if you will, is the munchies; you want to eat some stuff.

And so the feeling was if you had somebody who had cancer who was not feeling very well, their

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appetite was depressed, there's what's called cachecsic. If you could stimulate their appetite, that might facilitate their well-being and maybe even help them in other ways.

So way back, 20 years ago, they had actually done some clinical trials with this, and sometimes people forget, so they're doing some of the same things, some of the same things over again. My involvement was not at that level.

It turns out that some of the materials that are found in marijuana have some very interesting properties with regard to cancer cells themselves, and I had a grant from the National Institutes of Health to study -- to study that.

Q. The last one I'll ask you about is Chapter 18 of a book: Anti-Epileptic Drug Interactions. What was your contribution to that?

A. That was a part of the story I was telling with the folks from NIH, from the epilepsy branch, and that sort of brought together the NIH people, my laboratory. I think Wayne Sophia was one of the authors. He's in pharmaceuticals, so we had a drug company involved in this. And Ewart Swinyard from Utah.

So we had developed a technique, the use of

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combination therapy for epilepsy, and this chapter basically said: We've done it. Anybody who wants to use it, this is how you use it.

And I think we used some -- some novel anti-epileptic drugs in that -- in that study, and that's some of those funny-sounding names in the title.

Q. Do you have anymore publications planned?

A. I have this Health Canada report that's -- that's coming out -- that's coming out soon, and I have the results of a study that was presented last year at the Society of Toxicology meeting in Seattle, Washington. It was presented in an abstract form, and it basically used my -- my interest in biostatistics and modeling interactions with some of the cigarette design and testing work that we do in our laboratory in Europe. And that was presented in abstract form, and I hope we'll have that manuscript ready for submission to a peer review journal sometime soon.

Q. Dr. Carchman, I notice that you have a research career development award from the National Institute of Health, in fact, in '79 to '84. Research career development award from the National Institute of Health, what does that -- what was it?

A. Well, I mean, it was a prestigious award. I was the first faculty person in the department to get

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it, but, more important for me, it took away all of my administrative responsibilities. I hate administrative stuff. And so they said, the government said: Here, here's five years' worth of salary support. Just do research.

And so I was -- I was happy as can be over it, over just being able to focus on my research.

Q. They paid your salary, basically?

A. For five years.

Q. Okay. Now, in your work at the Medical College of Virginia, have you actually trained medical doctors?

A. To do basic science, laboratory science, yes.

Q. And what kind of laboratory science have you trained medical doctors in?

A. We went over some of the -- some of the publications, so for the work, say, that Dr. Fowler did, he was able to take materials from some of his patients and study them in a way that gave him more information, potentially helpful information, in terms of treatment for something like adult respiratory distress syndrome.

For somebody like Dr. Massey, in terms of her clinical practice and responsibilities, it opened up a whole new window in terms of the use of molecular

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biology, to potentially modify and help some of her patients; just as an example, in the epilepsy work, working with the epilepsy branch, in terms of the treatment of that particular disorder.

Q. And have some of the doctors that you've trained in your laboratory to do research, have some of them been surgeons?

A. Several have been surgical oncologists, yes.

Q. Now, how about Philip Morris scientists, have Philip Morris scientists trained with you when you were at the Medical College of Virginia?

A. Several, yes.

Q. And what were you teaching Philip Morris scientists, people who were employed at Philip Morris?

A. Well, I wasn't specifically teaching Philip Morris scientists. They could enroll in courses or classes that I was involved in or somebody else was involved in.

Some of them applied to the department I was in. Some of them got into the department. Some of them applied to other departments, whether it was microbiology, molecular biology or biochemistry and biophysics.

We had young scientists at Philip Morris that came into the department and trained with me. I had

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young scientists that trained with me that ended up with Philip Morris that didn't start out in Philip Morris. I had young scientists at Philip Morris that went to other departments, and I served on their graduate research, research committees, both at the doctorate level and at the master's level.

And I even had an appointment at the undergraduate school, the department of biology, and I had a couple of Philip Morris' young scientists that got their master's degree in biology, and I served on their graduate committees, as well.

And most of that was done while I was at the medical school, but some of it was done while I was at Philip Morris, because I maintained my academic affiliations with the medical school during the whole time I was at Philip Morris.

Q. So you stayed -- you stayed as a professor at the Medical College of Virginia while you were employed at Philip Morris?

A. I had an affiliate, and I still do, an affiliate appointment in the departments.

Q. Now, you talked about some of these scientific meetings where you presented papers and were invited to speak. Do you have -- have you generally attended the meetings of organizations like the

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American Society of Toxicologists, if I got that one right, organizations like that?

A. Yes.

Q. And do you attend -- have you attended regularly while you were at Philip Morris other scientist's seminars, as well?

A. Both at those meetings and at the medical school, and actually at some other places outside of Virginia and while at Philip Morris.

Q. Now, after you left the Medical College of Virginia and while you were at Philip Morris, have you been invited to speak at outside scientific meetings and symposiums?

A. As well as -- yes, as well as presenting it to government committees in the United States.

Q. Okay. And at those meetings where you've spoken and attended, are those -- are those meetings tobacco company meetings, or are they general scientific meetings where scientists come from all kinds of disciplines?

A. Generally, it was outside of the world of tobacco, but I've done some both inside and outside.

Q. Okay. Have you met public health scientists at these various meetings?

A. Before Philip Morris, during Philip Morris

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and after Philip Morris.

Q. Okay. Let me pick one, a name that the jury has heard.

At any of these scientific meetings, have you met Dr. Benowitz?

A. Sure.

Q. Have you worked with him?

A. I've spoken to him. I mean, he was at this Health Canada meeting, and we had several conversations about some things of mutual interest; and in fact, I was on the phone with him with several of my colleagues from Philip Morris about giving him some experimental cigarettes that he --

Q. Well, don't tell us where -- what you've been doing lately. I just want to know whether you have --

A. Yes. Sorry. Sorry.

Q. Okay. And is Dr. Benowitz on the Health Canada panel with you?

A. Yes.

Q. Okay. Now, how many scientists are there at Philip Morris?

A. In Richmond?

Q. In the -- let's take the research and development department in Richmond.

A. Research, development, engineering, 650.

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Q. What kind of disciplines do they cut across?

A. The engineering people are all of the different kinds of engineers, mechanical engineers, chemical engineers, whatever kind of engineers there are.

In the R&D -- on the R&D side, there are physicists, physical chemists, analytical chemists, synthetic organic chemists, structural chemists.

There are a variety of biologists, molecular biologists, biochemists, people with expertise in electron microscopy, people like me, pharmacologists, toxicologists, and some statisticians, just as an example.

That's just in Richmond.

Q. And Philip Morris has scientists in other places, other parts of the world?

A. We're talking the tobacco part of the --

Q. Right. I'm just talking tobacco.

A. Yes. Yes. We have another research and development facility in Neuchatel, Switzerland.

Q. Neuchatel is what? Spell it for the reporter.

A. I'm horrible on spelling.

THE COURT: She has it right.

THE REPORTER: Thank you, Judge.

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THE WITNESS: Does she have it right?

THE COURT: Yes.

THE WITNESS: Okay. Good.

MR. HEIM: Don't spell it.

A. And we have another facility that's headquartered in Cologne, Germany called INBIFO.

BY MR. HEIM:

Q. And there are scientists in both of those facilities?

A. There are a couple hundred scientists in Neuchatel, and there are about 150 scientists at INBIFO.

Q. Now, do those scientists at Neuchatel and INBIFO also attend seminars outside the tobacco company world?

A. Yes.

Q. And to your knowledge, have Philip Morris scientists, other than -- other than yourself, been invited to give presentations and speeches at scientific symposiums?

A. There are a number of other scientists in R&D who have not only spoken, but they've gone on sabbatical and leave of absence from Philip Morris to go to Cambridge or Oxford University in the UK, and other kinds of universities or facilities around the

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world. So it's not unique.

Q. Now, are scientists not employed by Philip Morris invited to Richmond to give presentations to Philip Morris scientists?

A. All of the time, especially in areas of great interest to research and development.

Q. And have you and your scientific colleagues at Philip Morris, the other scientists, worked at any time with government scientists on issues relating to smoking and health?

A. Yes.

Q. Now, Dr. Carchman, I think you -- when we started going through all of your -- all of the things you've done over the years, you said you retired recently, and I think you said February. Was that --

A. That's correct. Yes.

Q. What motivated you to retire?

A. The company offered an early retirement package that added five years to my age, five years to my service. My family, my wife, was very pleased at that opportunity. I wanted to do some other things, so I took it.

Q. What, are you going back to teaching?

A. Hopefully, if I can get this kind of stuff behind me, I will.

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I still -- I'm part of a National Institute of Health Training Grant at the medical school where the purpose is to train young scientists in both biostatistics and pharmacology and toxicology. The chairmen there would like to see me come back and do some teaching and get back into some research, as well.

Q. Are you going to do some fishing?

A. I've got a fly rod that's been sitting in my barn for 25 years. I'd like to get the dust off it and see if I remember how to fly fish.

MR. HEIM: Why don't we talk for a minute.

THE COURT: Do you need the reporter?

MR. HEIM: No. No. Don't need the reporter.

(Discussion off the record.)

THE COURT: All right. Folks, we've been discussing the scheduling. I know that you've got an appointment you've got to go to, and we'll go ahead and accommodate you on that.

We'll pick it up tomorrow. Usual time, 9:15.

(The jury exited the courtroom.)

THE COURT: Doctor, over the evening break, the rules are that you must not speak about your testimony with anybody, including the lawyers and anybody else. You can talk about anything in the world, but nothing that has to do with this case.

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THE WITNESS: Very good.

THE COURT: All right. We'll be in recess until 9:30 tomorrow morning.

(Court was adjourned at 3:45 p.m.)

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